

FIRST REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 816

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES KENNEDY AND GAMBARO (Co-sponsors).

Read 1st time February 15, 2001, and 1000 copies ordered printed.

Read 2nd time February 19, 2001, and referred to the Committee on Ways and Means, March 1, 2001.

Reported from the Committee on Ways and Means, March 14, 2001, with recommendation that the bill Do Pass by Consent.

Perfected by Consent March 28, 2001.

TED WEDEL, Chief Clerk

1904L.01P

AN ACT

To repeal sections 136.035 and 144.190, RSMo 2000, relating to authenticating claims for tax refunds, and to enact in lieu thereof two new sections relating to the same subject.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 136.035 and 144.190, RSMo 2000, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 136.035 and 144.190, to read as follows:

136.035. 1. The director of revenue from funds appropriated shall refund any
2 overpayment or erroneous payment of any tax which the state is authorized to collect. The
3 general assembly shall appropriate and set aside funds sufficient for the use of the director of
4 revenue to make refunds authorized by this section or by final judgment of court.

5 2. The director of revenue shall refund any overpayment or erroneous payment of any
6 tax on intangible personal property and the amount refunded shall be charged against the next
7 apportionment to the political subdivision which was the residence or situs of the taxpayer at the
8 time the tax was paid.

9 3. No refund shall be made by the director of revenue unless a claim for refund has been
10 filed with him within two years from the date of payment. Every claim must be in writing [under
11 oath] **and signed by the applicant**, and must state the specific grounds upon which the claim
12 is founded.

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

144.190. 1. If a tax has been incorrectly computed by reason of a clerical error or
2 mistake on the part of the director of revenue, such fact shall be set forth in the records of the
3 director of revenue, and the amount of the overpayment shall be credited on any taxes then due
4 from the person legally obligated to remit the tax pursuant to sections 144.010 to 144.525, and
5 the balance shall be refunded to the person legally obligated to remit the tax, such person's
6 administrators or executors, as provided for in section 144.200.

7 2. If any tax, penalty or interest has been paid more than once, or has been erroneously
8 or illegally collected, or has been erroneously or illegally computed, such sum shall be credited
9 on any taxes then due from the person legally obligated to remit the tax pursuant to sections
10 144.010 to 144.510, and the balance, with interest as determined by section 32.065, RSMo, shall
11 be refunded to the person legally obligated to remit the tax, but no such credit or refund shall be
12 allowed unless duplicate copies of a claim for refund are filed within three years from date of
13 overpayment.

14 3. Every claim for refund must be in writing [under oath,] **and signed by the applicant,**
15 and must state the specific grounds upon which the claim is founded. Any refund or any portion
16 thereof which is erroneously made, and any credit or any portion thereof which is erroneously
17 allowed, may be recovered in any action brought by the director of revenue against the person
18 legally obligated to remit the tax. In the event that a tax has been illegally imposed against a
19 person legally obligated to remit the tax, the director of revenue shall authorize the cancellation
20 of the tax upon the director's record.

21 4. Notwithstanding the provisions of this section, the director of revenue shall authorize
22 direct-pay agreements to purchasers which have annual purchases in excess of seven hundred
23 fifty thousand dollars pursuant to rules and regulations adopted by the director of revenue. For
24 the purposes of such direct-pay agreements, the taxes authorized pursuant to chapters 66, RSMo,
25 67, RSMo, 92, RSMo, and 94, RSMo, shall be remitted based upon the location of the place of
26 business of the purchaser.